

CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ACT

REGULATIONS

Article 1. General Provision

Section 6000. Objectives:

Pursuant to the California Industrial Development Financing Act, it is the policy of the State, consistent with environmental, resources conservation and other policies, to provide through the issuance of revenue bonds an alternative method of financing in acquiring, constructing, or rehabilitating industrial and energy development facilities in accordance with the criteria set forth in Section 91502.1 of the Act, all to the mutual benefit of the people of the state and to protect their health, welfare and safety.

NOTE: Authority cited: Section 91557, Government Code.

Reference: Section 91401 and 91502.1, Government Code.

Article 2. Definitions

Section 6010. Terms:

The words and terms defined in Section 91504 of the Act shall have the same meaning when used in these Regulations. The following additional terms shall be used in the manner described below:

- (a) “Act” means the California Industrial Development Financing Act, Title 10, commencing with Section 91500 et seq. of the Government Code.
- (b) “Commission” means the California Industrial Development Financing Advisory Commission, also referred to in the Act as the “State Office”.
- (c) “Applicant” is a person, partnership, corporation, whether for profit or not trust or other private enterprise of whatever legal form which has submitted to the Commission an application approved by a public agency.
- (d) “Chairperson” is the Chairperson of the Commission, designated in the Act as the State Treasurer, or his/her designee.
- (e) “Bonds” includes refunding bonds in addition to the meaning as defined in Section 91504 (e) of the Act.
- (f) “Small Business” means small business as defined in Section 14837 of the California Government Code.
- (g) “Common Reserve Fund” means the Common Bond Reserve Fund created to assist Small Business, by providing additional security for bonds issued under the Act.

NOTE: Authority cited: Section 91557, of Government Code.

Reference: Section 91504, 91531 and 91561, Government Code.

Article 3. Actions

Section 6020: CIDFAC as Issuer.

- (a) The Commission may upon request of two or more authorities, in order to share expenses and facilitate bond issuance, act as a Pooling Agent to issue bonds on a joint or Composite basis for companies which have applied for financing to the participating authorities. Authorities shall enter into written agreements with the Commission specifying the projects which are to be delegated to the Commission for financing pursuant to this Section.
- (b) Prior to issuance of any bonds pursuant to this Section, the Authority and public agency shall have completed the procedures required by Section 91530.
- (c) The Commission may issue bonds as requested and authorized by this Section for these purposes. The Commission is granted all of the powers of an authority and may enter into project agreements and take all steps toward the sale, issuance, and security of bonds in the same manner as authorities may do. The resolution required by Section 91537 shall be adopted by the Commission rather than the Authority.

Section 6040. Authority Reports:

- (a) Each authority, upon approval by the public agency of the ordinance creating the Authority, shall send to the Commission, a certified copy of said ordinance as well as a list of the members of the board officers and executive employees and designate the person(s) and an address and phone number to be contacted concerning the business of the Authority.
- (b) The Authority will promptly notify the Commission of all changes in the information provided in Section (a) above.

NOTE: Authority cited: Section 91557, Government Code.

Reference: Section 91520, 91524 and 91563, Government Code.

Section 6050. Submission of Project Information:

- (a) An Authority shall not issue bonds for a project until the information referenced in Section 91531 of the Act has been received by the Commission and the determination required under said section have been made by the Commission or the Authority.
- (b) For a period of sixty (60) days following the date of receipt by the Commission of the information referenced in Section 91531, the Commission shall have sole jurisdiction to make the determination required by said section provided that the 60 day period may be extended by written determination, the Commission shall lose jurisdiction to make such determination.
- (c) The nature of the information required for the making of the determination pursuant to Section 91531 is as follows:
 - (1) The application submitted by an applicant to an authority and approved by the public agency which application shall minimally include:

- (A) Identification of and a description of the applicant.
 - (B) A description of the project.
 - (C) A description of the activities or uses for which property acquired as part of the undertaking of the project will be suitable.
 - (D) The cost of the project.
 - (E) The maximum amount of the bond proposed to be issued in conjunction with the undertaking of this project.
 - (F) A description of the proposed issuance of bonds including security therefore, the revenue to be used in paying debt service and whether the bonds are proposed to be issued in exchange for one or more outstanding bonds, or bonds or claims, or partly in such exchange and partly for cash or property.
 - (G) A description of the public benefit, pursuant to criteria contained in Section 91502.1, which would accrue from undertaking the project.
 - (H) A description of any public detriment from issuance of bonds in the maximum amount proposed in the application.
 - (I) A description of the statewide size and location of the operations of the applicant both at the time of the application and as projected following completion of the project.
 - (J) Information as to whether the completion of the project or operation of facilities to be acquired as part of the undertaking of the project is reasonably necessary to prevent the relocation of any substantial operation of a company from an area within the state to an area outside the state.
 - (K) Any other information deemed by the applicant or the Authority to be necessary to the accurate portrayal of the project and its effects or which would facilitate the determination required by Section 91530 and 91531.
- (2) The identification of the Authority which accepted the application and the public agency which approved said application.
 - (3) Certified copies of all resolutions and other documents relating to actions taken by the authority and the public agency with regards to the application.

NOTE: Authority cited: Section 91557, Government Code.

Reference: Section 91431, Government Code.

Section 6060. Receipt, Review and Determination:

- (a) The date of receipt of project information by the Commission shall be the date when information of the nature described in Section 6050(c) of this article sufficient to enable Commission determinations pursuant to Section 91531 of the Act has been received.

- (b) The Commission shall notify the applicant and the Authority in writing of the date of receipt of project information not later than seven (7) days after the arrival of the project information at the office of the Commission.
- (c) The Commission shall review the project information as necessary to determine the compliance of the project with the criteria set forth in Section 91531. The Commission may however, with regards to the determination of project compliances with the criteria specified in paragraph (b)(3) of Section 91531, accept certifications made by the Authority submitting the project information, bond counsel, purchaser, or such other certifications as the Commission may require for the proposed issuance of bonds in conjunction with the undertaking of the project.
- (d) The Commission shall, on the basis of its review of the submitted project information, make express findings in writing as to its determination of the compliance of a project with the criteria set forth in Section 91531.
- (e) With regards to the determination identified in Section 91531(b)(3) the Commission may impose a condition or conditions on qualification of a proposed issuance of bonds if it finds that without such condition(s) the issuance will be unfair, unjust or inequitable to a purchaser of the bonds.
- (f) Written notification of the determinations of the Commission shall be given to the Authority and the applicant which submitted the project information. The Commission may, if requested by the Authority submitting the project information (which request shall be accompanied by an approval of the extensions of the period of Commission jurisdiction in making the determination required by Section 91531), delay the provision of a finding regarding compliance with the criterion set forth in Section 91531(b)(3) until such time as will facilitate the Authority's proposed issuance of bonds.
- (g) Determinations of the Commission with regards to project compliance with criteria set forth in Section 91531 shall be final and conclusive.
- (h) Having made its determination, conditionally or otherwise, the Commission will not suspend or revoke any qualification of the bond, once the bonds have been sold, absent extraordinary circumstances.
- (I) In addition to the other requirements of the Act, the Commission in reviewing applications for financing may take into consideration such factors as: location of the proposed project; nature of the proposed project; times of receipt of request for financing; and any other factors the Commission may deem appropriate. Priority shall be given to projects which achieve maximum realization of public benefit.

NOTE: Authority Cited: Section 91557, Government Code.

Reference: Section 91501, 91531 and 91536, Government Code

Section 6070. Fees:

The Commission shall charge fees commensurate with its direct expenses and those of the State Treasurer.

- (a) The minimum fee for each applicant submitted with each application shall be one-thousand two-hundred and fifty dollars (\$1,250.00).

- (b) A general fee of one quarter (1/4) of one-percent (1%) of the total amount of the bond issued, which shall be payable within ten (10) days after delivery of the bonds.

The general fee shall be in addition to the minimum application fee of one-thousand two-hundred fifty dollars (\$1,250.00).

HISTORY:

1. Amendment filed 12-29-82 designated effective 1-1-83 pursuant to Government Code Section 11346.2 (d) (Registrar 83. No.1)
2. Amendment filed 7-25-88; operative 7-25-88 (Registrar 88. No.33)

Article 4

Small Business Financing

Section 6080. Objectives:

Pursuant to the California Industrial Development Financing Act, the State finds and declares that small business may have difficulty establishing adequate security for bonds issued by an Authority on their behalf; that establishing common reserve funds will help to provide reasonable security for such bonds and will help to make the Authority's services available to various small businesses which maybe otherwise unable to use them.

- (a) "Small Business" means small business as defined in Section 14837 of the California Government Code.
- (b) The Commission shall establish its own liability limits of any such common reserve fund with respect to any issue of bonds issued by the Commission or any authority.
- (c) The Commission shall determine the method of establishing adequate security for bonds issued by the Commission or any Authority.